

Hazardous Waste Permitting



How you can get involved

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HAZARDOUS WASTE PERMITTING

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Kentucky

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Introduction

Hazardous wastes are generated by many types of businesses and government agencies. These wastes include materials that are ignitable, corrosive, reactive or toxic. Kentucky law requires that they be managed at facilities that are designed to treat, store or dispose of the wastes safely.

Any facility that treats, stores or disposes of hazardous wastes must have a permit issued by the Natural Resources and Environmental Protection Cabinet's Division of Waste Management. As the permitting authority, the division does not recruit hazardous waste management facilities to locate in the state. Rather, the agency regulates the facilities to ensure that public health and the environment are protected.

Opportunities for public involvement are provided during several hazardous waste permitting actions. These include whenever:

- ✓ a hazardous waste facility is proposed to be permitted;
- ✓ an existing permit is modified significantly;
- ✓ an existing facility closes a hazardous waste management unit; or
- ✓ an existing permit is renewed.

For simplicity, this booklet will focus on the public involvement process for a proposed hazardous waste facility. For facilities with existing permits or undergoing closure, the public involvement process is similar.

How are permits issued?

When regulations are passed that require a permit for specific hazardous waste management activities, some facilities may already be operating. These facilities may be allowed to continue to operate under an “interim status” permit until a hazardous waste permit is issued. The interim status application is less complex than the hazardous waste permit application, but it provides essential information about the facility and is the basis for state inspections.



The facility must, in time, either close its hazardous waste management operations or obtain a hazardous waste permit. In either case, public involvement is required.

Because existing facilities are already operating, there is no opportunity for public involvement prior to issuing an “interim status” permit. However, prior to issuing the hazardous waste operating permit or prior to closing the hazardous waste management unit, the public can participate in the decision-making process through several public-involvement activities.

How can you get involved?

You can get involved by expressing your interest about hazardous waste management issues directly to the Division of Waste Management. Also, you should contact facility representatives whenever you are concerned about a specific site.

The following opportunities for public involvement in the permit review process are provided by state law:

Public
Notice

Review of
Documents

Public
Comment
Period

Public
Hearing

Response to
Public
Comments

1. Public notice. The Division of Waste Management issues a public notice whenever a tentative decision is made to deny a permit application or to issue a draft permit. The notice appears in the local newspaper of widest circulation; however, all local news media (both print and broadcast) are advised of the decision. Further, the Division compiles a mailing list of individuals who express an interest in the proposed facility. This list is used to keep interested parties informed of the status of the permit application.
2. Review of documents. Copies of the application, related documents and the tentative denial or draft permit are available for public review in the community (usually the local library) and at the Division's office, 14 Reilly Road, Frankfort KY 40601.
3. Public hearing. Anyone can request a public hearing, which is held by the Division of Waste Management in the community where the facility is proposed. Individuals can bring their comments or concerns to the hearing or may submit them to the Division.
4. Comment period. A 45-day public comment period is provided in which comments can be submitted to the Division (with or without requesting a public hearing) for consideration in making a final decision.
5. Response to comments. Once comments have been received on a tentative decision, the Division prepares a response that addresses the concerns raised by each commentor. Copies of the responses are available to the public.

You also have the opportunity to comment to your local government whenever the Division of Waste Management makes a tentative decision to issue a permit for new land disposal or incineration facilities. Before the Division can issue permits to these types of facilities, the local fiscal courts must approve the permit applications; however, the fiscal courts are not involved in decisions to deny permits. Public involvement in this part of the process follows the procedures identified by the fiscal courts.

The Division of Waste Management offers additional public-involvement activities for controversial facilities, commercial facilities and facilities that burn hazardous waste either as an incinerator or for energy recovery. These initiatives are conducted under the Expanded Public Participation Program and are not specifically required by law. Each permit application of this type is carefully evaluated for enhanced public involvement, and a plan is developed. Activities that may be planned include distribution of fact sheets, public meetings, news releases, mailings to the public describing the proposed activities, etc.



The Public Index System

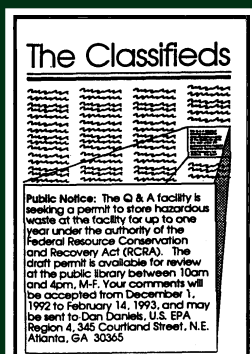
The status of pending applications can be tracked electronically via the Public Index System (PIX). Information is arranged by county and topic. Information from 14 databases can be accessed by dialing into the Micro-Vax II using any PC with a modem and communications software. Any device connected to the Wide Area Network or on the direct line to the Commonwealth's IBM 3090 can also be used. The system is updated weekly. PIX provides information on air quality, water quality, and resources, hazardous and solid waste management, and surface mining. For logon procedures or additional information about PIX, contact the Data Processing Branch at (502) 564-5174.

How do you know that a permit application is under review?

The Division of Waste Management issues a public notice through paid advertising in the major local newspaper whenever a permit application is received. The notice briefly describes the proposed facility and identifies contacts for both the Division and the facility so the public can obtain additional information. It offers the public an opportunity to be placed on a mailing list to receive future information about the permit process for the facility. The notice also identifies the projected completion date of the first application review.

How do you know when a permit decision is made?

The Division of Waste Management again notifies the public through a public notice published in the local newspaper when review of the application is complete and a draft permit is prepared or when a tentative decision is made to deny the application. In either case, the public has 45 days to comment. Public notices are published in the major local newspaper and aired over a local radio station in the vicinity of the facility. Notices are also mailed to individuals on the Division's mailing list, which includes local officials, affected agencies, community leaders and others who request to be included.



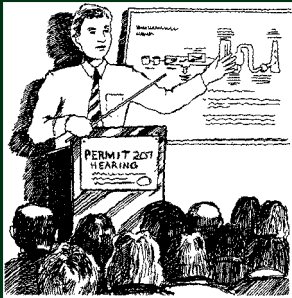
The public notice provides information about:

1. the facility,
2. how to comment on the proposed permit action,
3. the procedures for a public hearing, and
4. the location of the draft permit and related information for public review.

A copy of the draft permit and related information can be obtained from the Division upon request for the cost of duplication and postage. However, a copy is always available at a location accessible to the community, such as the local library.

How can you comment on the permit decision or request a public hearing?

Once a public notice is issued, the public can exercise its right to comment on the permit action. Anyone can submit comments to the Division during the 45-day comment period.



Also, anyone can request a public hearing on the permit action. The request must identify the issues that are being raised. The public hearing is conducted by Division of Waste Management staff. During the public hearing, Division staff explain the basis of the permit action, including contents of the draft permit if issued. Interested parties can comment orally during the hearing or submit comments during the comment period.

How are comments addressed?

The Division of Waste Management considers all comments in making a final decision on the permit. Since the purpose of the public hearing is to receive comments, division staff do not respond to comments during the public hearing. A written "Response to Comments" will be prepared after the public comment period ends and Division staff have reviewed and evaluated all comments.

The Response to Comments is available locally (usually at the public library) as well as at the Division's central office in Frankfort. Anyone can request to be informed when the document is available by completing a mailing card at the public hearing or by notifying the Division of his or her interest. Copies are available for the cost of reproduction and postage.

A tape recording or written transcript of the proceedings is also available to the public for the cost of duplication and postage. Upon request, alternative formats for printed materials can be made available for individuals with disabilities.

If any information presented during the public comment period raises substantial new issues about the permit action, the Division may reopen the public comment period.

Comments made during the extended comment period are limited to those new issues that caused the reopening. The Division notifies the public when a public comment period is extended and provides the status of the draft permit. Public notice procedures for reopening the comment period are identical to those used for the original permit action. A notice is published in the local newspaper, and a radio announcement is made. The public notice may offer an opportunity for another public hearing if a new draft permit is prepared.

When is a final decision made to issue or deny a permit?

After the public comment period ends, the Division of Waste Management evaluates the comments and makes a final decision whether to issue or deny the permit. This final decision becomes effective 30 days after the applicant is notified.

Although the law requires a public notice when the Division makes a tentative decision to issue or deny a permit, a public notice is not required for the final decision. However, the Division issues a press release about the final decision which is sent to local print and broadcast media and to individuals on the mailing list. The public can monitor the status of the permit application by calling the Division of Waste Management's Hazardous Waste Branch at (502) 564-6716.



Can you appeal the final decision?

Kentucky law provides that anyone aggrieved by the final decision to issue or deny a permit can petition the Natural Resources and Environmental Protection Cabinet for an administrative hearing. This petition must be made within 30 days of when the aggrieved party received notice of the final decision (or could reasonably have had such notice). The petition must be submitted to the Division of Hearings, 35 - 36 Fountain Place, Frankfort, KY 40601. An impartial hearing officer listens to arguments from all parties and issues a recommended course of action to the Cabinet Secretary. The Secretary then makes a final decision, which becomes the final order of the Cabinet.

Any final order of the Cabinet may be appealed to the Franklin Circuit Court. Decisions of the court may then be appealed to a higher court. For all petitions or appeals, the aggrieved parties should be represented by legal counsel.

What other ways can you get involved?

Citizens are encouraged to contact the management of a facility about concerns they may have. Many times miscommunication can be resolved by meeting with facility representatives and discussing the hazardous waste management processes, their impact on the local community and possible alternatives.

Interested citizens may unite their efforts by organizing a citizen's group to collectively identify and express their concerns about the needs of the community. Organized citizen groups usually choose a spokesperson, and some groups retain legal counsel.

Meetings between opposing sides are an effective communication tool. Public interest groups and facility representatives should meet early in the permitting process to allow for an open discussion of the issues.



Upon request, Division staff will attend and participate in these meetings to provide technical assistance and clarify issues. Division staff are also available to conduct public meetings, if requested.

The public hearing held prior to issuing a permit is a formal process that allows public comment. However, it is not a substitute for public meetings, because a hearing does not provide an opportunity for open discussion. The Division is committed to working with individuals and citizen groups whenever they express an interest in the permitting process.

What else can the Division of Waste Management do?

The Division of Waste Management can expand public participation activities in communities where there is substantial interest in a permit for a facility. The Division may:

- interview citizens to identify community concerns and perceptions about the facility and the Division's role;
- hold meetings with representatives of citizen groups and community leaders to enhance public participation;
- establish lines of communication between the community and the facility;
- place facility-related documents at designated locations in the community for public review; and
- establish a special mailing list to get information to people in the community who express interest.

Hazardous waste facilities are a source of concern to the public, and the Division of Waste Management invites everyone to become involved in the process for permitting these facilities. For additional information or to be placed on a site-specific mailing list, contact:

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